

February 18, 2020

Mr. Merrill Plait
Baltimore County Public Schools
9810 Pulaski Park Drive, Suite 204
Baltimore, Maryland 21220

Re: Gunpowder Elementary School
Forest Conservation Variance –
FC 05-19-3092

Dear Mr. Plait:

A request for a variance from the Baltimore County Code Article 33, Title 6 Forest Conservation was received by this Department of Environmental Protection and Sustainability (EPS) on January 7, 2020, and a revised request was received on February 11, 2020. This request proposes to base afforestation calculations on the 3.1 acre limits of disturbance rather than the entire 19.3 acre school site to separate the bus loop from the parking lot, to expand an existing parking lot and to add a stormwater management facility. The request also proposes to impact the critical root zone of five specimen trees that fall within the limits of disturbance for the proposed work.

The Director of EPS may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116(d)(1) of the Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the criteria under Subsection 33-6-116(d) must be met, and all three (3) of the criteria under Subsection 33-6-116(e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116(d)(1) of the Code) requires the petitioner show the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of beneficial use of his property. The applicant is seeking to reconfigure an existing bus loop, expand and existing parking lot, and add a bio-retention facility. Four of the specimen trees run along the edge of an existing parking lot, and the fifth is adjacent to an existing sidewalk.

There is no forest impacted by this work. Full application of the law to the entire property would not result in unwarranted hardship to the applicant, and we find that this criterion has not been met.

The second criterion (Subsection 33-6-116 (d)(2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions of the neighborhood. The proposal is to separate bus traffic and to expand the existing parking. These changes are entirely related to the use of the site as a school. The specimen trees are within six to twenty feet from the existing parking lot and sidewalk. The stormwater management facility will address stormwater requirements for the parking lot expansion. The site is already developed and therefore the circumstances here are unique and not related to the conditions of the neighborhood. Therefore, we find the second criterion has been met.

The third criterion (Subsection 33-6-116(d)(3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. The property use will not change. The school property is surrounded by residential development. The proposal to address bus traffic flow and parking and to add stormwater management and to impact the specimen trees will not change the character of the neighborhood. Therefore, we find that this criterion has been met.

The fourth criterion (Subsection 33-6-116(e)(1) of the Code) requires that the granting of the special variance will not adversely affect water quality. All sediment and erosion control techniques will be met during and after construction. Therefore, we find that granting of the special variance will not adversely affect water quality, and that this criterion has been met.

The fifth criterion (Subsection 33-6-116(e)(2) of the Code) requires that the special variance request does not arise from a condition or circumstance that is the result of actions taken by the petitioner. The petitioner has not started construction and is seeking all permits and approvals. The changes proposed to the site are not caused by any recent development activity. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. Allowing additional parking, changing the bus traffic loop, and adding stormwater management is consistent. Mitigation for the impact to the specimen trees will be required. Therefore, this criterion has been met.

Mr. Merrill Plait
Gunpowder Elementary School
February 18, 2020
Page 3

Based on our review, this Department finds that all of the required criteria have been met. Therefore, the variance request is hereby approved, in accordance with Section 33-6-116 of the Baltimore County Code contingent with the following conditions:

1. Add the following note to all plans for this project: "A Forest Conservation Special Variance was approved by the Baltimore County Department of Environmental Protection and Sustainability to allow impact to five specimen trees. Mitigation was accomplished through the payment of a fee-in-lieu."
2. A fee-in-lieu of \$6,045.41 must be paid for specimen tree impact prior to the approval of any permits.

This variance approval does not exempt future redevelopment of this site from complying with Baltimore County's Forest Conservation Law. It is the intent of this Department to approve this variance. Any changes to site layout may require submittal of revised plans and an amended variance request.

If you have any questions regarding this correspondence, please call Ms. Regina Esslinger at (410) 887-3980.

Sincerely yours,

David V. Lykens
Director

c: Mr. Dominic Taglione, AECOM